IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No.9097 of 2006
Date of Decision: 11.10.2007

Varindra Construction Co. and others .....Petitioners

Vs.

State of Punjab and others ...Respondents

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CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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Present : Mr.J.R. Mittal, Sr.Advocate with Mr. Kashmir Singh,Advocate for the petitioners.
Mr.Rupinder Khosla, Addl.A.G. Punjab.

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RAJIVE BHALLA, J

The petitioners pray for the issuance of a writ in the nature of Mandamus directing the respondents to release their land/property measuring 7 Kanals 2 Marlas, situated in Khasra No.197//2/1 acquired by the respondents.

The petitioners assert that in the year 1990, they installed a hot mix plant, constructed 28 rooms to house labour, a weigh bridge and their office. The State of Punjab issued a notification under Section 4 of the Land Acquisition Act (hereinafter referred to as `the Act') dated 1.12.1997 proposing to acquire land measuring 45 Acres 4 Kanals and 18 Marlas for the construction of a New Mandi Township at Baghapurana, Tehsil and Distt. Moga including the land belonging to the petitioners. It is further

alleged that though the petitioners were not served with any notice under Section 5-A of the Act, they filed objections on 31.12.1997, asserting therein that as they were running a hot mix plant since the year 1990, the land be released from acquisition. A declaration was issued under Section 6 of the Act dated 22.5.1998, excluding the petitioners land. However, another notification dated 26.7.1998 was issued under Section 6 for acquisition of the the petitioners land. The petitioners, thereafter, received a notice dated 11.8.1998, under Section 9 of the Act. Upon receipt of the aforementioned notice, the petitioners filed objections before respondent no.2, pleading therein that as the appropriate Government had taken a decision to exclude their land from acquisition, the proceedings for acquisition be dropped.

Failing to draw any positive response, the petitioners, filed CWP No.14329 of 1998, impugning the proceedings for acquisition. The writ petition was dismissed on 16.12.1999. A Special Leave Petition filed by the petitioners was also dismissed.

Counsel for the petitioners contends that till date possession has not been taken and nor has any compensation been paid. The Roznamcha entry reflecting the respondents possession is a paper entry. The hot mix plant continues to be operational and should, therefore, be released from acquisition.

In the reply filed on behalf of respondent no.3, the Punjab Mandi Board, Chandigarh, it is specifically asserted that possession was taken after the dismissal of the Special Leave Petition. This fact is reflected in Roznamcha entry no.256 dated 15.3.2000. It is further submitted that compensation was deposited way back in 1998 and the acquisition

proceedings have attained finality. The hot mix plant is not operational and is closed for the last many years. It is further asserted that as proceedings for acquisition have concluded and have been upheld upto the Hon'ble Supreme Court, the present petition be dismissed with exemplary costs.

We have heard learned counsel for the parties and perused the paper book.

A second attempt by the petitioners, to impugn the proceedings for acquisition must end in failure. The proceedings for acquisition have attained finality and challenge to their legality culminated with the dismissal of CWP No.14329 of 1998 on 16.12.1999. Pursuant to the award pronounced by the Collector, the compensation stands deposited and possession, as reflected in the Roznamcha Entry No.256 dated 15.3.2000 has been taken. Thus, the acquired land vests in the State and has thereafter been transferred to the beneficiary department. The petitioners, under the guise of a plea for release of their land, cannot be permitted to reopen a closed chapter.

As regards the petitioners contention that the hot mix plant is still operational, we find no material on record to support this assertion. The petitioners should have brought before us returns of income, details of production, payment of taxes, electricity bills etc. in support of the above assertions. In the absence of any material, the petitioners assertion is rejected. Thus, as proceedings for acquisition have attained finality the petitioners plea that a direction be issued to release their land is misplaced and must fail. Even otherwise, this plea could have been raised in the earlier writ petition.

In view of what has been stated herein above, we find no merit

in the present petition and dismissed the same with no order as to costs.

(RAJIVE BHALLA)
JUDGE

11.10.2007
GS

(UMA NATH SINGH)
JUDGE